

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

In Re: COOK MEDICAL, INC., IVC FILTERS
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

Case No. 1:14-ml-2570-RLY-TAB
MDL No. 2570

This Document Relates to:

Duane D. White

Civil Case # 1:21-cv-02667-RLY-TAB

**MOTION TO SUBSTITUTE PARTY PLAINTIFF
AND FOR LEAVE TO FILE FIRST AMENDED SHORT FORM COMPLAINT**

COMES NOW, Plaintiff Duane D. White and files this motion to substitute Corshay Jenkins, as the proper party plaintiff pursuant to Federal Rule of Civil Procedure 25(a)(1). In support thereof, Plaintiff respectfully shows the court the following:

1. Plaintiff Duane D. White filed the present action in the United States District Court for the Southern District of Indiana on October 17, 2021.
2. Plaintiff Duane D. White died on or about September 2, 2024.
3. On February 14, 2025, Plaintiff filed a notice of suggestion of death pursuant to Federal Rule of Civil Procedure 25(a)(1). *See* Doc. No. 26490. Plaintiff's counsel recently learned of the death of Duane D. White after contacting his daughter.
4. Corshay Jenkins, daughter of Duane D. White, is the proper party plaintiff to substitute for Plaintiff-decedent Duane D. White and has proper capacity to proceed forward with the surviving products liability lawsuit on Plaintiff-decedent's behalf, pursuant to Fed. R. Civ. P. 25(a)(1), stating, "[i]f a party dies, and the claim is not extinguished, the court may order

substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative."

5. Plaintiff thus moves to substitute Corshay Jenkins, as Administrator of the Estate of Duane D. White, Deceased, as Plaintiff in the present action.

6. Plaintiff also moves to amend the Complaint, as well as the caption of the Complaint, to correct the proper Plaintiff (specifically, Corshay Jenkins, as Administrator of the Estate of Duane D. White, Deceased) and to update and include information, allegations, and actions within the Complaint to reflect that Plaintiff Duane D. White is now deceased.

7. A proposed First Amended Short Form Complaint is attached hereto as Exhibit "A".

8. Pursuant to Federal Rules of Civil Procedure 15(a)(2), a party may amend its pleading only with the opposing party's written consent or the Court's leave. The Court should freely give leave when justice so requires.

WHEREFORE, counsel for Plaintiff requests this Court for the following relief: (1) the Court substitute Corshay Jenkins, as Administrator of the Estate of Duane D. White, Deceased, as Party Plaintiff for Duane D. White; (2) the Court grant leave to file the attached First Amended Short Form Complaint; Case 1:21-cv-02667-RLY-TAB; and, (3) the Court deem the attached First Amended Short Form Complaint filed instanter. A proposed Order is attached hereto as Exhibit "B".

Dated: May 9, 2025.

Respectfully Submitted,

/s/ Ben C. Martin

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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2025, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ Ben C. Martin

Ben C. Martin